

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADIDAS AMERICA, INC., AND ADIDAS :
AG, :
: Plaintiffs, : 21-cv-5615 (JSR)
: :
-v- : ORDER
: THOM BROWNE INC., :
: : Defendant. :
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JED S. RAKOFF, U.S.D.J.

On March 23, 2022, the Honorable Robert W. Lehrburger, United States Magistrate Judge, issued a detailed Report and Recommendation in the above-captioned matter recommending that the defendant's motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) or, in the alternative, for a more definite statement pursuant to Fed. R. Civ. P. 12(e) be denied in part and granted in part. Defendant timely filed its objection on April 6, 2022, asking this Court not to adopt the finding that the complaint adequately identified the protected mark, to which plaintiffs timely responded on April 20, 2022. Accordingly, the Court has reviewed the record and the issues de novo.

Having done so, the Court finds itself in complete agreement with Magistrate Judge Lehrburger's Report and Recommendation, and in particular his conclusion that the complaint sufficiently

alleges that the Three-Strike Mark functions as a unitary mark, and hereby adopts its reasoning by reference. Accordingly, the Court grants the motion in part by striking plaintiffs' prayer for relief asking the Court to sustain its TTAB opposition proceeding against defendant's trademark application and denies the motion in all other respects.

SO ORDERED.

Dated: New York, NY

April 21, 2022



JED S. RAKOFF, U.S.D.J.